



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

April 10, 2000

### **S. 2045**

### **American Competitiveness in the Twenty-First Century Act of 2000**

*As ordered reported by the Senate Committee on the Judiciary on March 9, 2000*

#### **SUMMARY**

S. 2045 would increase the number of nonimmigrant (temporary) visas, known as H-1B visas, available for certain skilled foreign workers and make several other changes to current laws relating to the employment of skilled foreign workers. The bill also would change the formulas governing the allocation of H-1B visa fees collected by the Immigration and Naturalization Service (INS), which are spent under current law without further appropriation for job training, scholarship, and administrative programs. It would direct the National Science Foundation (NSF) to conduct a study on access to advanced technology. Finally, S. 2045 would authorize the appropriation of \$20 million for each of fiscal years 2001 through 2006 for the Attorney General to make grants to the Boys and Girls Clubs of America to fund after-school technology programs.

Assuming appropriation of the necessary funds, CBO estimates that implementing S. 2045 would result in additional discretionary spending, over the 2000-2005 period, of \$101 million (\$20 million a year for the grants to Boys and Girls Clubs, and about \$1 million for the NSF study). In addition, we estimate that the bill would increase both offsetting receipts and direct spending of those receipts by about \$220 million over the 2000-2005 period. Because S. 2045 would affect direct spending, pay-as-you-go procedures would apply.

S. 2045 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs of complying with this mandate would be very small and would not exceed the threshold established in that act (\$55 million in 2000, adjusted annually for inflation).

S. 2045 would impose private-sector mandates as defined by UMRA by extending, for one year, two requirements on certain employers of persons with H-1B visas. However, CBO estimates that the direct costs of those mandates would not exceed the annual threshold established in UMRA for private-sector mandates (\$109 million in 2000 dollars, adjusted annually for inflation).

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2045 is shown in Table 1. The costs of this legislation fall within budget functions 150 (international affairs), 250 (general science, space, and technology), 500 (education, employment, training, and social services) and 750 (administration of justice).

**TABLE 1. Estimated Budgetary Effects of S. 2045, the American Competitiveness in the Twenty-First Century Act of 2000**

|   | By Fiscal Year, in Millions of Dollars |      |      |      |      |      |
|---|--|------|------|------|------|------|
|   | 2000                                   | 2001 | 2002 | 2003 | 2004 | 2005 |
| <b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b> |  |      |      |      |      |      |
| Estimated Authorization Level                       | 0                                      | 21   | 20   | 20   | 20   | 20   |
| Estimated Outlays                                   | 0                                      | 21   | 20   | 20   | 20   | 20   |
| <b>DIRECT SPENDING</b>                              |  |      |      |      |      |      |
| Net Spending of Visa Fees Under Current Law         |  |      |      |      |      |      |
| Estimated Budget Authority                          | 0                                      | 0    | 0    | 0    | 0    | 0    |
| Estimated Outlays                                   | -39                                    | -10  | 72   | 36   | 9    | 0    |
| Proposed Changes                                    |  |      |      |      |      |      |
| INS Administrative Fees                             |  |      |      |      |      |      |
| Estimated Budget Authority                          | -11                                    | -10  | -14  | 0    | 0    | 0    |
| Estimated Outlays                                   | -11                                    | -10  | -14  | 0    | 0    | 0    |
| H-1B Petitioner Fees                                |  |      |      |      |      |      |
| Estimated Budget Authority                          | -45                                    | -39  | -86  | 0    | 0    | 0    |
| Estimated Outlays                                   | -45                                    | -39  | -86  | 0    | 0    | 0    |
| Department of State Fees                            |  |      |      |      |      |      |
| Estimated Budget Authority                          | -5                                     | -4   | -6   | 0    | 0    | 0    |
| Estimated Outlays                                   | -5                                     | -4   | -6   | 0    | 0    | 0    |
| Total Change in Visa Fee Collections                |  |      |      |      |      |      |
| Estimated Budget Authority                          | -61                                    | -53  | -106 | 0    | 0    | 0    |
| Estimated Outlays                                   | -61                                    | -53  | -106 | 0    | 0    | 0    |
| Additional Spending from Visa Fees                  |  |      |      |      |      |      |
| Estimated Budget Authority                          | 61                                     | 53   | 106  | 0    | 0    | 0    |
| Estimated Outlays                                   | 16                                     | 24   | 49   | 57   | 54   | 18   |
| Net Change in Direct Spending                       |  |      |      |      |      |      |
| Estimated Budget Authority                          | 0                                      | 0    | 0    | 0    | 0    | 0    |
| Estimated Outlays                                   | -45                                    | -28  | -57  | 57   | 54   | 18   |
| Net Direct Spending Under S. 2045                   |  |      |      |      |      |      |
| Estimated Budget Authority                          | 0                                      | 0    | 0    | 0    | 0    | 0    |
| Estimated Outlays                                   | -84                                    | -38  | 15   | 93   | 63   | 18   |

## BASIS OF ESTIMATE

CBO estimates that implementing S. 2045 would cost about \$21 million in 2001 and about \$20 million a year for 2002 through 2005, assuming appropriation of the necessary funds. In addition, we estimate that enacting the bill would decrease direct spending for 2000, 2001, and 2002, and increase spending for 2003, 2004, and 2005. Over the 2000-2005 period, CBO estimates that net direct spending would decrease by \$1 million. For the purpose of this estimate, CBO assumes that S. 2045 will be enacted by June 1, 2000.

### Spending Subject to Appropriation

For the purposes of this estimate, CBO assumes that the \$20 million authorized to be appropriated for the technology grants to the Boys and Girls Clubs will be appropriated at the start of each fiscal year over the 2001-2005 period, with spending expected to occur in the same year. (The bill would authorize an additional \$20 million for such grants in 2006.) CBO estimates that the NSF study would cost about \$1 million in fiscal year 2001, subject to the availability of appropriated funds.

### Direct Spending

S. 2045 would increase the number of nonimmigrant visas available to certain skilled workers by about 100,000 in fiscal year 2000, by 87,500 in fiscal year 2001, and by 130,000 in fiscal year 2002. Table 2 shows the number of visas authorized by current law and the levels proposed under S. 2045. For 2000, the increase consists of a specified additional 80,000 visas plus an estimated addition of about 20,000 visas because section 3 of the bill would allow for certain exemptions from the cap on H-1B visas in that year.

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**TABLE 2. Number of H-1B Visas Authorized Under S. 2045**

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|  | <u>2000</u>    | <u>2001</u>   | <u>2002</u>    |
|--|----------------|---------------|----------------|
| H-1B Visas Authorized Under Current Law        | 115,000        | 107,500       | 65,000         |
| Additional H-1B Visas Authorized Under S. 2045 | <u>100,000</u> | <u>87,500</u> | <u>130,000</u> |
| Total H-1B Visas Authorized Under S. 2045      | 215,000        | 195,000       | 195,000        |

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The administrative fee for these visas is \$110 each, and CBO estimates that all of the additional authorized visas would be issued. Thus, enacting the bill would increase fees collected by the INS by about \$11 million in fiscal year 2000, by \$10 million in 2001, and by \$14 million in 2002. We expect that the INS would spend the fees (without appropriation action), mostly in the year in which they are collected. Thus, enacting this portion of S. 2045 would result in a negligible net budgetary impact in each year.

In addition to the administrative fees collected under this bill, most employers of the affected workers must pay a petitioner fee of \$500 per worker hired by October 1, 2001. The bill would extend the petitioner fee until October 1, 2002. Consequently, CBO estimates that the INS would collect additional petitioner fees of about \$45 million in fiscal year 2000, \$39 million in 2001, and \$86 million in 2002 (or a total of \$170 million over the three-year period). As under current law, these additional petitioner fees would be spent without further appropriation by the Department of Labor (DOL) to help train domestic workers for jobs in the technology sector, by NSF for certain scholarship and science education initiatives, and by DOL and INS for administrative expenses.

S. 2045 would change the formulas governing the allocation of petitioner fees among DOL, NSF, and INS. For purposes of this estimate, CBO assumes that the new formulas would take effect upon enactment, thereby changing the distribution of both the estimated \$170 million in new collections under the bill and the \$174 million expected to be collected under current law in 2000 and 2001. The formulas in S. 2045 would allocate 42.2 percent of the amounts collected to DOL for job training and administrative expenses, compared to 62.3 percent under current law. NSF would receive 59 percent of the fees for scholarships and other grants, versus 36.2 percent under current law. Finally, 1.5 percent of the funds would go to INS to help offset administrative costs. These new allocations total 102.7 percent of the fees, compared to 100 percent under current law. However, CBO assumes that spending would be limited by the amounts actually collected. Therefore, CBO estimates that new spending from petitioner fees authorized under S. 2045 would equal the \$170 million collected. (If spending were not limited by the amounts collected, CBO estimates that enacting the allocation formula authorized by S. 2045 would result in spending of \$10 million more than would be collected over the 2000-2005 period.)

This bill also would increase collections by the Department of State for H-1B visas; the fee for those visas is currently set at \$45 per person. CBO estimates that, on average, the State Department would collect and spend an additional \$5 million a year over the 2000-2002 period, and the net budgetary impact would be around \$1 million or less each year.

Individuals classified as nonimmigrants are ineligible for most federal public benefits, with a few exceptions that include emergency Medicaid services. Given that H-1B visa recipients

are skilled workers admitted for employment, CBO expects that any increase in costs for these services would not be significant.

In addition to provisions concerning the H-1B nonimmigrant visas, S. 2045 also would affect immigrant (permanent) visas. Current law provides for a cap on the number of employment-related immigrant visas that can be granted to natives of any one country in a given year. The bill would remove this cap, which could result in a small increase in the number of visas granted, and thus could increase fees collected by the INS. We expect that additional fees would not exceed \$500,000 annually, most of which would be spent in the same year, resulting in a negligible net budgetary impact.

## **PAY-AS-YOU-GO CONSIDERATIONS**

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in Table 3. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

**TABLE 3. Estimated Impact of S. 2045 on Direct Spending and Receipts**

|                     | By Fiscal Year, in Millions of Dollars |      |      |      |      |      |      |      |      |      |      |
|---------------------|--|------|------|------|------|------|------|------|------|------|------|
|                     | 2000                                   | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| Changes in outlays  | -45                                    | -28  | -57  | 57   | 54   | 18   | 0    | 0    | 0    | 0    | 0    |
| Changes in receipts | Not applicable                         |      |      |      |      |      |      |      |      |      |      |

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

S. 2045 would extend for one year the requirement that employers, including state and local governments, pay the \$500 petitioner fee when they hire an H-1B visa holder. This requirement would be an intergovernmental mandate as defined in UMRA. While CBO is uncertain how to calculate the costs of such a mandate (as discussed below in the private-sector section), we estimate that costs to state and local governments would be very small and would not exceed the threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation).

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

S. 2045 would impose private-sector mandates on employers that hire H-1B visa holders by extending for one year two existing mandates that would otherwise expire on October 1, 2001. The American Competitiveness and Workforce Improvement Act of 1998 prohibits any “H-1B-dependent” employer from hiring any H-1B visa holder within 90 days of firing another employee from a similar position. (An H-1B-dependent employer is a business where at least 15 percent of the employees are foreigners with H-1B visas.) The same act also requires that all employers that hire H-1B visa holders pay a \$500 fee to the government for each H-1B holder they hire.

CBO cannot determine whether these mandates would impose any costs on the private-sector as defined in UMRA because the law is unclear about how to measure costs associated with extending an existing mandate that has not yet expired. The costs of the extension would be equal to the current cost of compliance if measured against the costs that would be incurred if current law remains in place and the mandate expires. Because there are very few H-1B-dependent employers, CBO expects that the cost of extending the prohibition on firing current employees would be low. The fee extension, which would affect all employers that hire H-1B holders, would be more costly. CBO estimates that the government would collect over \$50 million by extending the fee provision.

In contrast, UMRA may also be interpreted to mean that the costs would be measured against the current costs of complying with the mandate. In that case, the mandate would impose no additional costs on the private sector because the extension would not force employers to change their current behavior. In either case, CBO estimates that the total costs to the private sector would fall below the threshold established in UMRA (\$109 million in 2000, adjusted annually for inflation).

The employers affected by the extensions are among those most likely to benefit from the bill’s other provisions, particularly the increase in the number of available H-1B visas.

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